

January 31, 2003 declaration of 3D Systems' former general counsel, A. Sidney Alpert, and a February 2, 2003 declaration of 3D Systems' general patent counsel, Ralph D'Alessandro. True copies of those declarations of Dr. Ervin, Mr. Alpert, and Mr. D'Alessandro are attached to this Appendix of Evidence as Exhibits 1, 6, and 20, respectively.

3. On July 8, 2002 and February 25, 2003, EOS's Chief Executive Officer, Hans Langer, was deposed in the California Action.

- a. Attached as Exhibit 2 are true copies of the cover page, pages 563-64, and the reporter's certification of the transcript from Mr. Langer's February 25, 2003 deposition.
- b. Attached as Exhibit 15 are true copies of the cover page, pages 93-94, 123-24, and 127-30, and the reporter's certification of the transcript from Mr. Langer's July 8, 2002 deposition.
- c. Exhibit 207 to that deposition was an August 27, 1997 letter to Mr. Langer from Mr. Alpert, a true copy of which is attached as Exhibit 17 (and filed under seal because of EOS's designation of that document as confidential).

4. True copies of U.S. Patent Nos. 5,597,589 (the "'070 patent") and 5,639,070 (the "'070 patent") are attached as Exhibits 3 and 4, respectively.

5. A true copy of the December 3, 1987 License Agreement between the Board of Regents, The University of Texas System and DTM's predecessor, Nova Automation Corporation (bearing production numbers (UT)3D 151139 through (UT)3D 151152 and produced by Plaintiffs to EOS in this litigation), is attached as Exhibit 5.

6. On or about February 17, 2003, EOS filed a February 14, 2003 declaration of Mr. Langer in the California Action. Attached as Exhibit 19 is a true copy of an August 6, 1997

letter of intent (“Letter of Intent”) signed by EOS, 3D Systems, and Mr. Langer, which was attached as Exhibit P to Mr. Langer’s declaration. Attached as Exhibit 7 is a true copy of the August 27, 1997 Settlement Agreement, which was attached as Exhibit Q to Mr. Langer’s declaration.

7. In the Appendix of Evidence referred to in paragraph 2 above, the Non-Competition Agreement (“Non-Competition Agreement”) and License Agreement (“License Agreement”) — both of which were entered into by 3D Systems and EOS and dated August 27, 1997 — were attached as Exhibits C and B, respectively, to Mr. Alpert’s declaration. True copies of the Non-Competition Agreement and License Agreement are attached as Exhibits 8 and 9, respectively.

8. A true copy of the September 28, 2001 letter confirming the University of Texas’s consent to the assignment to 3D Systems of DTM’s license under the UT Patents is attached as Exhibit 10.

9. For the Court’s convenience, attached as Exhibit 11 is a true copy of the cover page and page 6 of EOS’s Opposition to Motion to Sever, which was filed in this action on December 4, 2003.

10. For the Court’s convenience, attached as Exhibit 12 is a true copy of the Patent Act of 1790 as referenced in D.S. Chisum, 9 CHISUM ON PATENTS, App. 9 (2002).

11. For the Court’s convenience, attached as Exhibit 13 is a true copy of the Patent Act of 1793 as referenced in D.S. Chisum, 9 CHISUM ON PATENTS, App.10 (2002).

12. For the Court’s convenience, attached as Exhibit 14 is a true copy of Section 307 from the Manual of Patent Examining Procedure.

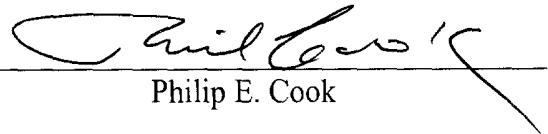
13. On July 31, 2002, Mr. Alpert was deposed in the California Action. Attached as Exhibit 16 are true copies of the cover page, pages 15-16, and the reporter's certification of the transcript from Mr. Alpert's July 31, 2002 deposition.

14. For the Court's convenience, attached as Exhibit 18 is a true copy of the cover page and page 5 of EOS's Supplemental Memorandum in Opposition to 3D Systems' Motion for Summary Judgment, which was filed in the California Action on February 26, 2002.

15. Attached as Exhibit 21 is the December 31, 2003 declaration of former DTM employee Michael A. Ervin, Ph.D.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 30th day of December, 2003, at Los Angeles, California.


Philip E. Cook

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served in the following manner to the following counsel of record on this 31st day of December, 2003.

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ELIZABETH J. BROWN FORE

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

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Civil Case No. A:03-CA-113 SS

Board of Regents, The University of Texas System, and 3D
Systems, Inc.

VS.

EOS GmbH Electro Optical Systems

Attachments to

Document #: 158

Description: Declaration of Philp E. Cook in Support of
Motion of Plaintiffs for Summary Judgment
on EOS's Third Affirmative Defense of
Express License

File Date: 12/31/03

Prepared by: TDK

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